



FIGURE 15

(d) *Parking device test (applicable to walkers equipped with parking brakes)*—

(1) *Requirement.* When tested to the procedures in paragraph (d) of this section, the infant walker shall have a maximum displacement of 1.97 inches (50 mm) for each test in each direction (forward, rearward, and sideward).

(2) *Test equipment.* (i) A test platform as specified in Figure 10 with a hardwood floor pre-finished with polyurethane.

(ii) Test Mass A and Test Mass B as specified in paragraph (c)(2)(ii) and (iii) of this section.

(3) *Test method.* (i) *Preparation and procedure.*

(A) Adjust the walker seat to the highest position (if applicable). Place Test Mass A vertically in the walker seat. Set any manual speed control to the fastest position (if applicable). Establish a vertical plane A that passes through the center of the seating area and is parallel to the direction the child faces. Establish a vertical plane B that is perpendicular to plane A and passes through the center of the seating area.

(B) Perform the parking device test in the forward, sideward, and rearward directions.

(ii) *Forward facing test of parking devices.*

(A) Position the walker including Test Mass B facing forward so that plane A is perpendicular to the front edge of the platform and passes through the center of the pulley. Engage all parking devices in accordance with the manufacturer's instructions.

(B) Within one minute of placing the walker with Test Mass B on the platform, attach an 8 lb weight gradually within 5 seconds to the walker frame base at plane A by means of a rope and a pulley per the test apparatus specifications in the step test procedure, adjusted so that the force is applied horizontally (rope angle shall be  $0 \pm 0.5^\circ$ ). Remove the 8 lb weight after 1 minute. Measure the displacement.

(iii) *Sideward facing test of parking devices.*

(A) Position the walker including Test Mass B facing sideward so that plane B is perpendicular to the front edge of the platform and passes through the center of the pulley. Engage all parking devices in accordance with the manufacturer's instructions.

(B) Within one minute of placing the walker with Test Mass B on the platform, attach an 8 lb weight gradually within 5 seconds to the walker frame base at plane B by means of a rope and a pulley per the test apparatus specifications in the step test procedure, adjusted so that the force is applied horizontally (rope angle shall be  $0 \pm 0.5^\circ$ ). Remove the 8 lb weight after 1 minute. Measure the displacement.

(iv) *Rearward facing test of parking devices.*

(A) Position the walker including Test Mass B facing rearward so that plane A is perpendicular to the front edge of the platform and passes through the center of the pulley. Engage all parking devices in accordance with the manufacturers' instructions.

(B) Within one minute of placing the walker with Test Mass B on the platform, attach an 8 lb weight gradually within 5 seconds to the walker frame base at plane A by means of a rope and a pulley per the test apparatus specifications in the step test procedure, adjusted so that the force is applied horizontally (rope angle shall be  $0 \pm 0.5^\circ$ ). Remove the 8 lb weight after 1 minute. Measure the displacement.

Dated: August 25, 2009.

**Todd Stevenson,**

*Secretary, U.S. Consumer Product Safety Commission.*

[FR Doc. E9-20946 Filed 9-2-09; 8:45 am]

**BILLING CODE 6355-01-P**

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1500

[CPSC Docket No. CPSC-2009-0066]

### Revocation of Regulation Banning Certain Baby-Walkers, Walker-Jumpers, and Similar Products

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Consumer Product Safety Commission ("CPSC" or "Commission") is proposing to revoke certain regulations pertaining to baby-bouncers, walker-jumpers, baby-walkers, and similar products. CPSC is taking this action because the regulations, which originally were issued in 1971, are outdated and do not provide the degree of safety that is provided by currently manufactured baby-walkers that comply with a more effective voluntary standard. This action also will eliminate confusion about whether manufacturers should certify that their products comply with these regulations or with a new mandatory safety standard for baby-walkers proposed elsewhere in this issue of the **Federal Register**.

**DATES:** Submit comments by November 2, 2009.

**ADDRESSES:** To ensure timely processing of comments, the Commission is no longer directly accepting comments submitted by electronic mail (e-mail). The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described below in paragraph 1, "Electronic Submissions."

*You may submit comments, identified by Docket No. CPSC-2009-0066, by any of the following methods:*

1. Electronic Submissions.

Submit electronic comments to the Federal eRulemaking Portal: <http://fwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.regulations.gov>.

Follow the instructions for submitting comments.

## 2. Written Submissions.

Submit written submissions in the following ways:

FAX: 301-504-0127.

Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions): Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East West Highway, Bethesda, MD 20814.

**Instructions:** All submissions received must include the agency name and docket number for this rulemaking. All comments received, including any personal information provided, may be posted without change to <http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.regulations.gov>. Accordingly, we recommend that you not submit confidential business information, trade secret information, or other sensitive information that you do not want to be available to the public. For additional information on comments, see part E of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** For access to the docket to read background documents or comments received, go to <http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts.

## FOR FURTHER INFORMATION CONTACT:

**Technical information.** Patricia Edwards, Division of Mechanical Engineering, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, 301-504-7577, [pedwards@cpsc.gov](mailto:pedwards@cpsc.gov).

**Legal information.** Harleigh Ewell, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, 301-504-7683, [hewell@cpsc.gov](mailto:hewell@cpsc.gov).

## SUPPLEMENTARY INFORMATION:

### A. Background

1. *The CPSC's regulation for baby-walkers.* CPSC regulations at 16 CFR 1500.18(a)(6) and 1500.86(a) ban any "baby-bouncer," "walker-jumper," or "baby-walker" and any other similar article" (referred to below as "baby-walkers") that does not meet specified safety criteria. These regulations were issued in 1971 by the Food and Drug Administration ("FDA") under the Federal Hazardous Substances Act ("FHSA"), 15 U.S.C. 1261-1278 (available at <http://www.cpsc.gov/>

[businfo/fhsa.pdf](http://www.cpsc.gov/businfo/fhsa.pdf)). 36 FR 21809 (Nov. 16, 1971). On May 14, 1973, the functions under the FHSA were transferred to the then newly-created CPSC.

Specifically, 16 CFR 1500.18(a)(6) bans baby-walkers and "any other similar article" that is intended to support very young children while "sitting, walking, bouncing, jumping, and/or reclining," and which, because of its design, has any exposed parts capable of causing amputation, crushing, lacerations, fractures, hematomas, bruises, or other injuries to fingers, toes, or other parts of the anatomy of young children. The regulation describes the hazardous design features of such articles warranting the ban as including, but not being limited to, one or more of the following:

- Areas about the point on each side of the article where the frame components are joined together to form an X-shape capable of producing a scissoring, shearing, or pinching effect;
- Other areas where two or more parts are joined in such a manner as to permit rotational movement capable of exerting a scissoring, shearing, or pinching effect;
- Exposed coil springs which may expand sufficiently to allow an infant's finger, toe, or other body part to be inserted, in whole or in part, and injured by being caught between the coils of the spring or between the spring and another part of the article;
- Holes in plates or tubes which also provide the possibility of insertion of a finger, toe, or other part of the anatomy that could then be injured by the movement of another part of the article; or
- A design and construction that permits accidental collapse while in use.

Exemptions to the ban can be found at 16 CFR 1500.86(a)(4). These include any baby-walker where:

- The frames are designed and constructed in a manner to prevent injury from any scissoring, shearing, or pinching when the members of the frame or other components rotate about a common axis or fastening point or otherwise move relative to one another; and
- Any coil springs which expand when the article is subjected to a force that will extend the spring to its maximum distance so that a space between successive coils is greater than one-eighth inch (0.125 inch) are covered or otherwise designed to prevent injuries; and
- All holes larger than one-eighth inch (0.125 inch) in diameter, and slots, cracks, or hinged components in any

portion of the article through which a child could insert, in whole or in part, a finger, toe, or any other part of the anatomy, are guarded or otherwise designed to prevent injuries; and

- The articles are designed and constructed to prevent accidental collapse while in use; and
- The articles are designed and constructed in a manner that eliminates from any portion of the article the possibility of presenting a mechanical hazard through pinching, bruising, lacerating, crushing, breaking, amputating, or otherwise injuring portions of the human body when in normal use or when subjected to reasonably foreseeable damage or abuse; and
- Any article which is introduced into interstate commerce after the effective date of [the regulation] is labeled:

- With a conspicuous statement of the name and address of the manufacturer, packer, distributor, or seller; and
- With a code mark on the article itself and on the package containing the article or on the shipping container, in addition to the invoice(s) or shipping document(s), which code mark will permit future identification by the manufacturer of any given model (the manufacturer shall change the model number whenever the article undergoes a significant structural or design modification); and

- The manufacturer or importer of the article shall make, keep, and maintain for 3 years records of sale, distribution, and results of inspections and tests conducted in accordance with this subparagraph and shall make such records available at all reasonable hours upon request by any officer or employee of the Consumer Product Safety Commission and shall permit such officer or employee to inspect and copy such records, to make such stock inventories as such person deems necessary, and to otherwise check the correctness of such records.

The existing regulations do not include any requirements specifically pertaining to hazards associated with falls down stairs, structural integrity, occupant retention, or loading/stability issues.

As discussed earlier in this part A.1 of this preamble, the regulations at 16 CFR 1500.18(a)(6) and 1500.86(a) apply to any "baby-bouncer," "walker-jumper," "baby-walker," and "any other similar article." The regulations do not define those terms, and when FDA promulgated those regulations in 1971,

it expressly rejected comments that sought a description of the regulated articles. In the preamble to its final rule that appeared in the **Federal Register** of November 16, 1971 (36 FR 21809), FDA stated that the terms “baby-bouncers” and “baby-walkers” are “used both by industry and the general public” and revised the phrase, “and similar articles,” to “and any other similar article” to clarify the regulations’ purpose “to include within their scope all articles conforming to the descriptions in the regulations whether or not they are called by those specific names.”

2. *The voluntary standard for infant-walkers.* The current voluntary standard for Infant Walkers, *The Standard Consumer Safety Specification for Infant Walkers* (ASTM F977–07) is published by the American Society for Testing and Materials (now ASTM International, or ASTM) (Memorandum from P. Edwards, Project Manager, to the Commission dated Aug. 14, 2009). The ASTM voluntary standard defines an infant walker as “a mobile unit that enables a child to move on a horizontal surface when propelled by the child sitting or standing within the walker, and that is in the manufacturer’s recommended use position.” This standard has provisions to address the following:

- Latching or Locking Mechanisms;
- Openings;
- Scissoring, Shearing, and Pinching;
- Exposed Coil Springs;
- Labeling;
- Protective Components;
- Stability;
- Structural Integrity;
- Occupant Retention; and
- Prevention of Falls Down Step(s).

ASTM F977–07 contains provisions pertaining to scissoring, shearing, pinching, and accidental collapse that are stricter, or more conservative, than the existing CPSC regulation. With regard to exposed coil springs and openings, the ASTM voluntary standard differs somewhat from the existing CPSC regulation. The specifications in ASTM F977–07 for coil springs and openings (holes) are similar in concept to those in the mandatory regulation, but are less restrictive as to allowable dimensions. For instance, the voluntary standard prohibits any hole or slot between 0.210” and 0.375” in size that extends entirely through a wall section of any rigid material less than 0.375” thick. The existing regulation bans any baby-walker that contains a hole larger than 0.125” in diameter, and it does not contain a depth requirement.

The rationale for the ASTM standard was based on anthropometric data

developed for the CPSC by the University of Michigan in 1975. (Snyder, R. G., Spencer, M. L., Owings, C. L. & Schneider, L. W. (1975), *Physical Characteristics of Children As Related to Death and Injury for Consumer Product Design and Use, Prepared for the Consumer Product Safety Commission (UM–HSRI–BI–75–5 Final Report Contract FDA–72–70 May 1975)*, Highway Safety Research Institute, The University of Michigan, May 31, 1975.) This data set sampled body measurements of children from 2 weeks to 13 years of age. The measurements relevant here are the little finger diameter and middle finger diameter. The intent of the ASTM standard is to prevent entrapments by making openings either too small for the smallest user to penetrate with their smallest finger or larger than the largest user’s biggest finger (thereby allowing the finger to be withdrawn without entrapment). The existing CPSC regulations were never revised nor updated to take this data into consideration. Thus, the requirements in the CPSC regulations are outdated in this respect.

The University of Michigan study is also the basis for the specifications for allowable openings that are in other ASTM juvenile-product standards. In addition to the study’s validity, the standards use this data because the less restrictive dimensional specification allows for products to be made from thinner materials with reinforced ribbing, such as injection molded plastics. When the existing CPSC regulations were published, baby-walkers were typically made with metal tube frames. Molded plastics are used more predominately today in juvenile products, and, when manufactured in accordance with the ASTM specifications for openings, these materials have not been shown to create finger or toe entrapment or pinch hazards.

The inclusion of the terms “baby-bouncers” and “walker-jumpers” in the regulations may be because some baby-walkers had spring-like devices, and the occupant could bounce or jump while also moving horizontally.

A bouncer seat, as currently defined by ASTM, is a freestanding product intended to support an occupant in a reclined position to facilitate bouncing by the occupant. Intended occupants are infants who have not developed the ability to sit up unassisted (approximately 0 to 6 months of age). These products are covered by ASTM voluntary standard F2167, *Standard Consumer Safety Specification for Infant Bouncer Seats*.

Jumpers are not defined in any ASTM standard, but there are some juvenile products known as jumpers. These include seats suspended from door frames that facilitate jumping. Although these jumpers are not covered by a voluntary standard, the Commission’s staff is not aware of any recent incidents involving these products that would have been prevented by the regulations. Apparently, these products do not currently present the hazards addressed by the regulations.

There also are jumpers mounted on a dedicated freestanding frame. These jumpers are covered under ASTM voluntary standard F2012, *Standard Consumer Safety Performance Specifications for Stationary Activity Centers*.

3. *Incident data.* The known baby-walker incidents from the year 2000 to the present uncovered no incidents where fingers were pinched, stuck, or entrapped and the specific circumstances were known. From the information available, it appears that the causes of most incidents are outside the scope of CPSC’s regulations. CPSC staff did not find any incidents that would be directly impacted if the Commission were to revoke the regulations. Most baby-walker incidents resulting in injuries or deaths are a result of the product falling down steps, a hazard that is not addressed by the existing regulations but that is covered under ASTM’s voluntary standard.

4. *Compliance/Recall Information.* The Commission’s Office of Compliance reviewed the recalls and cases opened on baby-walkers over the last 20 years. The Compliance staff did not find any recalls associated with openings or coil springs. One case occurred where the regulation’s requirements for openings and coil springs were not met. This case was found when a baby-walker was intercepted at the port of entry. The primary hazard associated with this product was lack of stair fall protection. Compliance staff also is not aware of any recalls for finger entrapment hazards in any other juvenile products that conform to ASTM’s specifications for openings. This indicates that the voluntary standards are adequate to address the openings hazard.

## B. Future Mandatory Regulation of Baby-Walkers

The Consumer Product Safety Improvement Act of 2008 (“CPSIA”), Public Law 110–314, 122 Stat. 3016 (available at <http://www.cpsc.gov/cpsia.pdf>), was enacted on August 14, 2008. The CPSIA contains some requirements with broad applicability, as well as some product-specific

provisions. Section 104 of the CPSIA directs the Commission to take a number of actions concerning “durable infant or toddler products.” Section 104(f) of the CPSIA defines a durable infant or toddler product as a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years. This includes cribs, toddler beds, high chairs, booster chairs, hook-on chairs, bath seats, gates and other enclosures for confining a child, play yards, stationary activity centers, infant carriers, strollers, walkers, swings, bassinets, and cradles. Section 104(b) of the CPSIA provides, in part, that the Commission shall, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, examine and assess the effectiveness of any voluntary consumer product safety standards for durable infant or toddler products. The Commission is also directed to promulgate consumer product safety standards that are substantially the same as such voluntary standards or that are more stringent than such voluntary standards, if the Commission determines that more stringent standards would further reduce the risk of injury associated with the products.

Section 104(b) of the CPSIA also specifies that these new mandatory standards for durable infant or toddler products shall be issued on a compressed schedule. The statute directs the Commission to begin the rulemaking for these standards by August 14, 2009, and to promulgate standards for no fewer than two categories of durable infant or toddler products every six months thereafter, beginning with the product categories that the Commission determines to be of highest priority. This process will continue until the Commission has promulgated standards for all such product categories.

Baby-walkers are one of the first two products addressed in these rulemakings. Elsewhere in this issue of the **Federal Register**, the Commission is proposing a safety standard for baby-walkers. Thus, the Commission expects that there will be an updated, more effective mandatory standard for baby walkers issued by February 14, 2010. The Commission expects that the requirements of that mandatory standard will be based largely on the provisions of the current ASTM voluntary standard, discussed earlier in part A.2 of this preamble.

To illustrate how a new regulation might use concepts currently seen in the ASTM voluntary standard, the current

regulations at 16 CFR 1500.18(a)(6) and 1500.86(a) do not contain requirements to protect against falls down stairs. The voluntary ASTM standard, however, does contain a stair-fall protection provision for baby walkers that provides that a walker must either stop at the edge of a step or be too wide to fit through a standard-size doorway. There have been numerous incidents and deaths associated with baby walkers that do not contain stoppers or brakes to prevent walkers from falling down stairs. CPSC’s Compliance staff has conducted numerous recalls involving baby walkers due to the lack of stair-fall protection. If the CPSC were to promulgate regulations to address stair-fall protection and make any walker that does not contain stair-fall protection a banned product, a number of future incidents and deaths from stair falls would be prevented.

### C. Required Accredited Third Party Testing and Certification for Baby-Walkers

Section 14(a)(2) of the Consumer Product Safety Act (“CPSA”), 15 U.S.C. 2063(a)(2) (available at <http://www.cpsc.gov/cpsia.pdf>), as amended by section 102 of the CPSIA, requires manufacturers and private labelers of children’s products (such as baby-walkers) that are subject to a children’s product safety rule to submit sufficient samples of the children’s product, or samples that are identical in all material respects to the product, to an accredited third party conformity assessment body to be tested for compliance with any applicable children’s product safety rule. (“Children’s product safety rule” is defined at 15 U.S.C. 2063(f)(1). See also 15 U.S.C. 2052(a)(5), 2052(a)(6).) For the purposes of the CPSA, the term “manufacturer” includes an importer. 15 U.S.C. 2052(a)(11).

The Commission has issued regulations at 16 CFR part 1110 concerning the content of certificates of compliance and limiting the parties who must issue such certificates to the United States importer and, in the case of domestically produced products, the United States manufacturer. Based on such testing, the manufacturer and private labeler must issue a certificate stating that such children’s product complies with the children’s product safety rule based on the assessment of a third party conformity assessment body accredited to conduct such tests. (Products, other than children’s products, that are subject to a consumer product safety rule also are subject to testing and certification requirements. 15 U.S.C. 2063(a)(1).) The certification also must be based on a reasonable

testing program or a test of each product. For these products, however, the tests are not required to be conducted by an accredited third party conformity assessment body.

Unless stayed by the Commission, these requirements apply to any such children’s product that is manufactured more than 90 days after the Commission has established and published a notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with any children’s product safety rule to which such children’s product is subject. Section 14(a)(3) of the CPSA, 15 U.S.C. 2063(a)(3).

Section 14(a)(3) of the CPSA also provides a schedule for the dates by which the Commission must publish the notices of the requirements for accreditation of third party conformity assessment bodies for various children’s products. For “baby bouncers, walkers, and jumpers,” the statute specified that the Commission publish a notice of the requirements for accreditation of third party conformity assessment bodies “to assess conformity with parts 1500.18(a)(6) and 1500.86(a)” and that such publication occur not later than 210 days after the date of enactment of the CPSIA, or March 12, 2009. The proposed rule, if finalized, would revoke 16 CFR 1500.18(a)(6) and 1500.86(a) and, as a result, make it unproductive to issue a notice of requirements that references those regulations. Furthermore, the requirement for the testing and certification of many products, including baby-walkers, has been stayed by the Commission until Feb. 10, 2010, at which time the Commission will vote on whether to terminate the stay. 74 FR 6396 (Feb. 9, 2009). By then, as noted above in part B of this preamble, the Commission intends to develop an up-to-date mandatory standard to which baby walkers can be tested and certified.

### D. Discussion

As can be seen from the information presented above in part A.2 of this preamble, the Commission’s current requirements for baby-walkers are outdated and are not based on the most recent anthropometric data. This unduly restricts the design choices available to the manufacturers of baby walkers without providing any additional safety. Furthermore, the current voluntary standard not only deals adequately with the hazards addressed by the Commission’s regulation but also covers other major hazards, such as falls down stairs, associated with the product.

CPSC staff reviewed the existing baby-walker regulation in 2006 as part of the

Program for Systematic Review of Commission Regulations and recommended that a project be undertaken to consider revoking the regulations on baby-walkers. (Memorandum to Jacqueline Elder, Assistant Executive Director, Office of Hazard Identification and Reduction, from Patricia Hackett, Division of Mechanical Engineering, dated April, 24, 2007.)

As discussed above in part B of this preamble, the Commission intends to issue a new mandatory standard for baby walkers in the next year. The new standard is likely to address the stair-fall hazard and be largely based on the current voluntary standard. As noted in part C of this preamble, after the current stay of testing and certification requirements for many products, including baby walkers, is terminated (on or after Feb. 10, 2010), children's products subject to a mandatory standard will have to be tested by a third party conformity assessment body and certified as complying with the standard. The anticipated new mandatory standard probably will not issue until shortly before or even after Feb. 10, 2010. As that date approaches, notwithstanding the absence of a notice of requirements for baby walkers, if the current mandatory standard is still in place and a rule to revoke it has not been issued, the manufacturers of baby walkers may be uncertain as to what requirements they should certify to after the stay is terminated. To avoid this uncertainty and any associated expense to the industry or conformity assessment bodies, the Commission is proposing to revoke its regulations pertaining to baby-walkers and proposing that any final rule revoking those regulations will become effective on the date of termination of the stay of the testing and certification requirements for baby walkers or upon the effective date of the new mandatory standard to be developed, whichever occurs first. In the meantime, CPSC's staff will encourage baby walker manufacturers to comply with the voluntary standard.

#### **E. Questions Pertaining to the Products Covered by 16 CFR 1500.18(a)(6) and 1500.86(a) and ASTM's Standards**

The Commission notes that there may be some question as to whether there are products that arguably fall within 16 CFR 1500.18(a)(6) and 1500.86(a), but not within any ASTM standard. A possible example of this might be jumpers that affix to door frames, as discussed earlier in part A.2 of this preamble.

Additionally, there may be some question about whether the regulations afford some protections that the ASTM standards do not. For example, if one concluded that certain jumpers are covered by the regulations, but not by ASTM standards, one might assert that the regulations need to be retained to cover such products.

Therefore, the Commission specifically invites comments on: (1) Whether there are products that are covered by 16 CFR 1500.18(a)(6) and 1500.86(a), but not by any ASTM voluntary standard; (2) whether retention of CPSC's current regulations for those specific products is warranted; and (3) whether there are specific requirements in 16 CFR 1500.18(a)(6) and 1500.86(a), but not in any ASTM standard, that warrant retention. Identification of the specific product(s) and requirement(s) would be particularly helpful.

#### **F. Paperwork Reduction Act**

This proposed rule would not impose any information collection requirements. Accordingly, this rule is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501–3520.

#### **G. Environmental Considerations**

This proposed rule falls within the scope of the Commission's environmental review regulation at 16 CFR 1021.5(c)(1), which provides a categorical exclusion from any requirement for the agency to prepare an environmental assessment or environmental impact statement for rules that revoke product safety standards.

#### **H. Effective Date**

The Commission proposes that a final rule to revoke 16 CFR 1500.18(a)(6) and 1500.86(a) become effective on the date of termination of the stay of the testing and certification requirements originally announced in the **Federal Register** of February 9, 2009 (74 FR 6396), or upon the effective date of the new mandatory standard to be developed, whichever occurs first. If necessary, the revocation could become effective immediately upon its date of publication in the **Federal Register**. Section 553(d) of the Administrative Procedure Act ("APA") excludes certain final rules from the otherwise applicable APA requirement that the effective date of a rule be at least 30 days after the rule is published. 5 U.S.C. 553(d). One such exclusion is for a rule that relieves a restriction. Because the proposed rule would, if finalized, relieve certain restrictions for baby-bouncers, walker-jumpers, and

baby-walkers, a delayed effective date would not be necessary.

#### **I. References**

1. ASTM voluntary standard F977–07, *Standard Consumer Safety Specification for Infant Walkers*.
2. Memorandum from P. Edwards, Project Manager, to the Commission, "Notice of Proposed Rulemaking—Recommending the Revocation of CPSC Regulation for Baby Bouncers, Walker-Jumpers, and Baby-Walkers, 16 CFR 1500.18(a)(6) and 1500.86(a)(4)," dated Aug. 14, 2009.
3. Snyder, R. G., Spencer, M. L., Owings, C. L., & Schneider, L. W. (1975), *Physical Characteristics of Children As Related to Death and Injury for Consumer Product Design and Use, Prepared for the Consumer Product Safety Commission (UM-HSRI-BI-75-5 Final Report Contract FDA-72-70 May 1975)*, Highway Safety Research Institute, The University of Michigan, May 31, 1975 "available on the Internet at <http://www.itl.nist.gov/iaui/ovrt/projects/anthrokids/>".
4. ASTM voluntary standard F2012, *Standard Consumer Safety Performance Specifications for Stationary Activity Centers*.
5. ASTM voluntary standard F2167, *Standard Consumer Safety Specification for Infant Bouncer Seats*.
6. Memorandum to Jacqueline Elder, Assistant Executive Director, Office of Hazard Identification and Reduction, from Patricia Hackett, Division of Mechanical Engineering, "Regulatory Review of CPSC Regulation for Baby Bouncers, Walker-Jumpers, and Baby-Walkers, 16 CFR 1500.18(a)(6) and 1500.86(a)(4)," dated April, 24, 2007.
7. 36 FR 7255–56 (April 16, 1971).
8. 36 FR 21809–10 (Nov. 16, 1971).
9. 73 FR 68328 (Nov. 18, 2008).
10. 74 FR 6396 (Feb. 9, 2009).

#### **List of Subjects in 16 CFR Part 1500**

Consumer protection, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, Reporting and recordkeeping requirements, Toys.

For the reasons stated above, and under the authority of 15 U.S.C. 1261–1262 and 5 U.S.C. 553, the Consumer Product Safety Commission proposes to amend 16 CFR part 1500 as follows:

#### **PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS**

1. The authority citation for 16 CFR part 1500 continues to read as follows:

**Authority:** 15 U.S.C. 1261–1278.

#### **§ 1500.18 [Amended]**

2. Section 1500.18 is amended by removing and reserving paragraph (a)(6).

**§ 1500.86 [Amended]**

3. Section 1500.86 is amended by removing and reserving paragraph (a)(4).

Dated: August 25, 2009.

**Todd Stevenson,**

*Secretary, U.S. Consumer Product Safety Commission.*

[FR Doc. E9–20945 Filed 9–2–09; 8:45 am]

BILLING CODE 6355–01–P

**CONSUMER PRODUCT SAFETY COMMISSION****16 CFR Part 1215**

[CPSC Docket No. CPSC–2009–0064]

**Safety Standard for Infant Bath Seats**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Section 104(b) of the Consumer Product Safety Improvement Act of 2008 (“CPSIA”) requires the United States Consumer Product Safety Commission (“Commission”) to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. The Commission is proposing a safety standard for infant bath seats in response to the direction under section 104(b) of the CPSIA.

**DATES:** Written comments must be received by November 17, 2009.

**ADDRESSES:** You may submit comments, identified by Docket No. CPSC–2009–0064, by any of the following methods:

**Electronic Submissions**

Submit electronic comments in the following way:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (e-mail) except through <http://www.regulations.gov>.

**Written Submissions**

Submit written submissions in the following way:

*Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions), preferably in five copies, to:* Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to <http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Patricia Edwards, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7577; [pedwards@cpsc.gov](mailto:pedwards@cpsc.gov).

**SUPPLEMENTARY INFORMATION:****A. Background and Statutory Authority***1. The Consumer Product Safety Improvement Act*

The Consumer Product Safety Improvement Act of 2008 (“CPSIA,” Pub. L. 110–314) was enacted on August 14, 2008. Section 104(b) of the CPSIA requires the Commission to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. Section 104(b)(2) of the CPSIA directs the Commission to begin rulemaking for two standards by August 14, 2009. In this document the Commission proposes a safety standard for bath seats. The proposed standard is substantially the same as a voluntary standard developed by ASTM International (formerly known as the American Society for Testing and Materials), ASTM F 1967–08a, “Standard Consumer Safety Specifications for Infant Bath Seats,” but the Commission is proposing some modifications to strengthen the standard.

*2. Previous Commission Rulemaking Concerning Bath Seats*

The Commission has been engaged in regulatory efforts for infant bath seats for several years. In July 2000, several consumer organizations petitioned the Commission to ban bath seats under the Federal Hazardous Substances Act

(“FHSA”). The consumer organizations asserted that bath seats presented an unreasonable risk of injury and death due to drowning. On August 1, 2001, the Commission published an advance notice of proposed rulemaking (“ANPR”) in the **Federal Register** initiating a rulemaking proceeding on bath seats (66 FR 39692). The Commission issued a notice of proposed rulemaking that was published in the **Federal Register** on December 29, 2003 (68 FR 74878) proposing requirements for stability, leg openings, and warnings. Elsewhere in this issue of the **Federal Register**, the Commission has issued a notice that the Commission has terminated the bath seat rulemaking proceeding that it began under the FHSA because it has been superseded by this rulemaking required under section 104(b) of the CPSIA.

**B. The Product**

Infant bath seats are used in a tub or sink to support a seated infant while he or she is being bathed. They are marketed for use with infants between the age of approximately 5 months (the time at which infants can sit up unassisted) to the age of approximately 10 months (the time at which infants begin pulling themselves up to a standing position). Currently, there are three manufacturers and one importer of bath seats active in the United States. All are members of the Juvenile Products Manufacturers Association (“JPMA”), which is the major United States trade association representing juvenile product manufacturers and importers. All produce a variety of children’s products in addition to bath seats.

The exact number of bath seats currently sold or in use is not known. A 2005 survey by the American Baby Group indicated annual sales of bath seats of about 1.5 million and about 1.7 million bath seats in use. In 2000, JPMA estimated annual sales of bath seats at about one million and estimated up to 2 million bath seats in use for infants under one year of age.

**C. ASTM Voluntary Standard**

ASTM F 1967, *Standard Consumer Safety Specification for Infant Bath Seats*, was first published in 1999. Between 2003 and 2007, the ASTM standard was subsequently revised several times to include requirements that the Commission proposed in its 2003 NPR and to exclude tub-like products.

In response to changes in the ASTM standard, product design changed significantly. The new designs use an arm that clamps onto the side of the